

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1159**

---

---

**Introduced by Senator Hernandez**

February 18, 2016

---

---

An act to add Chapter 8 (commencing with Section 127670) to Part 2 of Division 107 of, and to repeal the heading of Chapter 8 (formerly commencing with Section 127670) of Part 2 of Division 107 of, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, as amended, Hernandez. California Health Care ~~Cost and Quality~~ *Cost, Quality, and Equity Transparency* Database.

Existing law establishes health care coverage programs to provide health care to segments of the population meeting specified criteria who are otherwise unable to afford health care coverage and provides for the licensure and regulation of health insurers and health care service plans.

~~This bill would require certain health care entities, including health care service plans, to provide specified information to the Secretary of California Health and Human Services. The bill would authorize the secretary to report a health care entity that fails to comply with that requirement to the health care entity's regulating agency and would authorize the regulating agency to enforce that requirement using its existing enforcement procedures.~~

~~The bill would require all data disclosures made pursuant to these provisions to comply with all applicable state and federal laws for the protection of the privacy, security, and confidentiality of data and would prohibit the disclosure of any unaggregated, individually identifiable health information or medical information. The bill would also require individually identifiable health information and medical information to be protected by security measures including, but not limited to, encryption. The bill would require that certain confidentially negotiated contract terms be protected in data disclosures made pursuant to these provisions and would prohibit certain individually identifiable proprietary contract information from being disclosed in an unaggregated format. The bill would authorize the secretary to enter into contracts or agreements to share the information collected under the bill, under prescribed conditions.~~

~~This bill would also require the secretary to convene an advisory committee composed of a broad spectrum of health care stakeholders and experts, as specified, to identify the type of data, purpose of use, and entities and individuals that are required to report to, or that may have access to, a health care cost and quality database. The bill would require the secretary to arrange for the preparation of a report to the Legislature and the Governor, to be submitted by January 1, 2019, that examines and addresses specified issues, including, among others, containing the cost of health care services and coverage. The bill would prohibit members of the committee from receiving a per diem or travel expense reimbursement, or any other expense reimbursement.~~

~~Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

*This bill would require the California Health and Human Services Agency to research the options for developing a cost, quality, and equity transparency database. The bill would require the research to include certain topics, including, among others, identification of key data submitters and a comparative analysis of potential models used in other states. The bill would authorize the agency to enter into contracts or agreements to conduct the research and would require the agency to make the results of the research available to the public no later than*

March 1, 2017, by submitting a report to the Assembly and Senate Committees on Health.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) It is the intent of the Legislature in enacting  
2 this act ~~to make~~ *that* cost and quality data *be made* available and  
3 to encourage health care service plans, health insurers, and  
4 providers to develop innovative approaches, services, and programs  
5 that may have the potential to deliver health care that is both cost  
6 effective and responsive to the needs of enrollees, including  
7 recognizing the diversity of California and the impact of social  
8 determinants of health.

9 (b) *It is further the intent of the Legislature that a cost, quality,*  
10 *and equity transparency database be utilized in California to*  
11 *inform efforts to:*

12 (1) *Assess California health care needs and available resources.*

13 (2) *Contain the cost of health care services and coverage.*

14 (3) *Improve the quality and medical appropriateness of health*  
15 *care.*

16 (4) *Eliminate or reduce health disparities and address the social*  
17 *determinants of health.*

18 (5) *Increase the transparency of health care costs and the*  
19 *relative efficiency with which care is delivered.*

20 (6) *Promote the use of disease management, wellness,*  
21 *prevention, and other innovative programs to keep people healthy,*  
22 *reduce disparities and costs, and improve health outcomes for all*  
23 *populations.*

24 (7) *Assess the value and encourage the efficient utilization of*  
25 *prescription drugs and technology.*

26 (8) *Reduce unnecessary, inappropriate, and wasteful health*  
27 *care.*

28 (9) *Educate consumers in the use of health care information.*

29 SEC. 2. The heading of Chapter 8 (formerly commencing with  
30 Section 127670) of Part 2 of Division 107 of the Health and Safety  
31 Code, as amended by Section 230 of Chapter 183 of the Statutes  
32 of 2004, is repealed.

SEC. 3. Chapter 8 (commencing with Section 127670) is added to Part 2 of Division 107 of the Health and Safety Code, to read:

CHAPTER 8. CALIFORNIA HEALTH CARE ~~COST AND QUALITY~~  
COST, QUALITY, AND EQUITY TRANSPARENCY DATABASE

127670. (a) ~~(1) Solely for the purpose of developing information for inclusion in a health care cost and quality database, and consistent with the California Health and Human Services Agency shall research the options for developing a cost, quality, and equity transparency database that is consistent with paragraph (9) of subdivision (b) of Section 56.10 of the Civil Code, a health Code. This research shall include all of the following:~~

~~(1) Identification of key data submitters, including health care service plan, including a plans, specialized health care service plan, an insurer plans, insurers licensed to provide health insurance, as defined in Section 106 of the Insurance Code, a supplier, suppliers, as defined in paragraph (3) of subdivision (b) of Section 1367.50, or a provider, providers, as defined in paragraph (2) of subdivision (b) of Section 1367.50, shall, and a self-insured employer, a employers, multiemployer self-insured plan that is plans that are responsible for paying for health care services provided to beneficiaries, and the trust administrator trust administrators for a multiemployer self-insured plan may, provide all of the following to the Secretary of California Health and Human Services: plans.~~

~~(2) A comparative analysis of potential models used in other states and an assessment of the extent to which information in addition to the following should be included in the cost, quality, and equity transparency database:~~

~~(A) Utilization data from the health care service plans' and insurers' medical, dental, and pharmacy claims or, in the case of entities that do not use claims data, including, but not limited to, integrated delivery systems, encounter data consistent with the core set of data elements for data submission proposed by the All-Payer Claims Database Council, the University of New Hampshire, and the National Association of Health Data Organizations.~~

~~(B) Pricing information for health care items, services, and medical and surgical episodes of care gathered from allowed~~

1 charges for covered health care items and services or, in the case  
2 of entities that do not use or produce individual claims, price  
3 information that is the best possible proxy to pricing information  
4 for health care items, services, and medical and surgical episodes  
5 of care available in lieu of actual cost data to allow for meaningful  
6 comparisons of provider prices and treatment costs.

7 (C) Information sufficient to determine the impacts of social  
8 determinants of health, including age, gender, race, ethnicity,  
9 limited English proficiency, sexual orientation and gender identity,  
10 ZIP Code, and any other factors for which there is peer-reviewed  
11 evidence.

12 ~~(2) (A) The secretary may report an entity's failure to comply~~  
13 ~~with paragraph (1) to the entity's regulating agency.~~

14 ~~(B) The regulating agency of an entity described in paragraph~~  
15 ~~(1) may enforce paragraph (1) using its existing enforcement~~  
16 ~~procedures. Notwithstanding any other law, moneys collected~~  
17 ~~pursuant to this authorization shall be subject to appropriation by~~  
18 ~~the Legislature, and the failure to comply with paragraph (1) is~~  
19 ~~not a crime.~~

20 ~~(b) (1) (A) Subject to paragraph (9) of subdivision (b) of~~  
21 ~~Section 56.10 of the Civil Code, all uses and disclosures of data~~  
22 ~~made pursuant to this section shall comply with all applicable state~~  
23 ~~and federal laws for the protection of the privacy and security of~~  
24 ~~data, including, but not limited to, the Confidentiality of Medical~~  
25 ~~Information Act (Part 2.6 (commencing with Section 56) of~~  
26 ~~Division 1 of the Civil Code), the Information Practices Act of~~  
27 ~~1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of~~  
28 ~~Part 4 of Division 3 of the Civil Code), Title 1.81 (commencing~~  
29 ~~with Section 1798.80) of Part 4 of Division 3 of the Civil Code,~~  
30 ~~and the federal Health Insurance Portability and Accountability~~  
31 ~~Act of 1996 (Public Law 104-191), and the federal Health~~  
32 ~~Information Technology for Economic and Clinical Health Act,~~  
33 ~~Title XIII of the federal American Recovery and Reinvestment~~  
34 ~~Act of 2009 (Public Law 111-5), and implementing regulations.~~

35 ~~(B) Use and disclosure of data pursuant to this section shall be~~  
36 ~~consistent with privacy and security protections for individually~~  
37 ~~identifiable health information and medical information under state~~  
38 ~~and federal law, including any applicable exceptions to the~~  
39 ~~requirement to obtain patient authorization, including, but not~~

1 limited to, paragraph (9) of subdivision (b) of, and paragraph (7)  
2 of subdivision (c) of, Section 56.10 of the Civil Code.

3 (2) (A) ~~All policies and protocols developed pursuant to this~~  
4 ~~section shall ensure that the privacy, security, and confidentiality~~  
5 ~~of individually identifiable health information and medical~~  
6 ~~information is protected. The secretary shall not disclose any~~  
7 ~~unaggregated, individually identifiable health information or~~  
8 ~~medical information and shall develop a protocol for assessing the~~  
9 ~~risk of reidentification stemming from disclosure of any health~~  
10 ~~information and medical information that is aggregated,~~  
11 ~~individually identifiable health information, or medical information.~~  
12 ~~This paragraph does not preclude sharing individually identifiable~~  
13 ~~health information that is not aggregated with researchers for~~  
14 ~~research purposes, consistent with paragraph (7) of subdivision~~  
15 ~~(c) of Section 56.10 of the Civil Code.~~

16 (B) For the purposes of this paragraph, the following terms have  
17 the following meanings:

18 (i) “Individually identifiable health information” has the same  
19 meaning as in Section 160.103 of Title 45 of the Code of Federal  
20 Regulations.

21 (ii) “Medical information” has the same meaning as in Section  
22 56.05 of the Civil Code.

23 (3) ~~Confidentially negotiated contract terms contained in a~~  
24 ~~contract between a health care service plan or insurer and a provider~~  
25 ~~or supplier shall be protected in any public disclosure of data made~~  
26 ~~pursuant to this section. Individually identifiable proprietary~~  
27 ~~contract information included in a contract between a health care~~  
28 ~~service plan or insurer and a provider or supplier shall not be~~  
29 ~~disclosed in an unaggregated format.~~

30 (c) ~~The secretary may enter into contracts or agreements to share~~  
31 ~~the information collected under this section for the purposes of~~  
32 ~~this chapter, provided that any use of that information complies~~  
33 ~~with the requirements of this section.~~

34 (d) (1) ~~The agency administering the California Health Care~~  
35 ~~Cost and Quality Database shall adopt rigorous standards of~~  
36 ~~security protection to ensure as nearly as possible that the~~  
37 ~~information contained in and collected for the purposes of the~~  
38 ~~California Health Care Cost and Quality Database is not~~  
39 ~~compromised. This shall include, but is not limited to, requiring~~  
40 ~~encryption.~~

1     ~~(2) For the purposes of paragraph (1), the term “encryption”~~  
2     ~~means the protection of data in electronic form, in storage or in~~  
3     ~~transit, using an encryption technology that has been generally~~  
4     ~~accepted by experts in the field of information security that renders~~  
5     ~~data indecipherable in the absence of associated cryptographic~~  
6     ~~keys necessary to enable decryption of the data. “Encryption”~~  
7     ~~includes appropriate management and safeguards of cryptographic~~  
8     ~~keys to protect the integrity of the encryption.~~

9     ~~(e) For purposes of this section, the California Health and~~  
10    ~~Human Services Agency is an agency subject to Chapter 1~~  
11    ~~(commencing with Section 1798) of Title 1.8 of Part 4 of Division~~  
12    ~~3 of the Civil Code.~~

13    ~~(3) An assessment of types of governance structures that~~  
14    ~~incorporate representatives of health care stakeholders and~~  
15    ~~experts, including, but not limited to, representatives of data~~  
16    ~~submitters and representatives of purchasers, such as businesses,~~  
17    ~~organized labor, and consumers.~~

18    ~~(4) Recommendations on potential funding approaches to~~  
19    ~~support the activities of the cost, quality, and equity transparency~~  
20    ~~database that recognize federal and state confidentiality of medical~~  
21    ~~information laws.~~

22    ~~(5) An assessment on the extent to which the cost, quality, and~~  
23    ~~equity transparency database could be developed in conjunction~~  
24    ~~with existing public or private activities, including an assessment~~  
25    ~~of the trade-offs associated with housing the database inside or~~  
26    ~~outside of state government.~~

27    ~~(6) Consultation with a broad spectrum of health care~~  
28    ~~stakeholders and experts, including, but not limited to,~~  
29    ~~representatives of purchasers, such as organized labor, consumers,~~  
30    ~~and businesses.~~

31    ~~(b) The agency may enter into contracts or agreements to~~  
32    ~~conduct the research described in subdivision (a).~~

33    ~~(c) (1) The agency shall make the results of the research~~  
34    ~~described in subdivision (a) available to the public no later than~~  
35    ~~March 1, 2017, by submitting a report to the Assembly and Senate~~  
36    ~~Committees on Health.~~

37    ~~(2) Pursuant to Section 10231.5 of the Government Code, this~~  
38    ~~subdivision shall become inoperative on January 1, 2021.~~

39    ~~(d) The agency may use federal funds for the purpose of this~~  
40    ~~section.~~

~~127672. (a) The secretary shall convene an advisory committee, composed of a broad spectrum of health care stakeholders and experts, including, but not limited to, representatives of the entities that are required to provide information pursuant to subdivision (a) of Section 127670 and representatives of purchasers, including, but not limited to, businesses, organized labor, and consumers, to identify the type of data, purpose of use, and entities and individuals that are required to report to, or that may have access to, a health care cost and quality database. The advisory committee shall hold public meetings with stakeholders, solicit input, and set its own meeting agendas. Meetings of the advisory committee are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~(b) The secretary shall arrange for the preparation of a report, which shall be submitted to the Legislature and the Governor, on or before January 1, 2019, based on the findings of the advisory committee, including input from the public meetings, that shall, at a minimum, examine and address the following issues:~~

~~(1) Assessing California health care needs and available resources.~~

~~(2) Containing the cost of health care services and coverage.~~

~~(3) Improving the quality and medical appropriateness of health care.~~

~~(4) Reducing health disparities and addressing the social determinants of health.~~

~~(5) Increasing the transparency of health care costs and the relative efficiency with which care is delivered.~~

~~(6) Use of disease management, wellness, prevention, and other innovative programs to keep people healthy, reduce disparities and costs, and improve health outcomes for all populations.~~

~~(7) Efficient utilization of prescription drugs and technology.~~

~~(8) Reducing unnecessary, inappropriate, and wasteful health care.~~

~~(9) Educating consumers in the use of health care information.~~

~~(c) (1) A report submitted under subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.~~



1     ~~(2) The requirement for submitting a report pursuant to~~  
2     ~~subdivision (b) is inoperative on July 1, 2022, pursuant to Section~~  
3     ~~10231.5 of the Government Code.~~

4     ~~(d) Notwithstanding any other law, the members of the advisory~~  
5     ~~committee shall not receive per diem or travel expense~~  
6     ~~reimbursement, or any other expense reimbursement.~~

7     ~~SEC. 4. The Legislature finds and declares that Section 3 of~~  
8     ~~this act, which adds Section 127670 to the Health and Safety Code,~~  
9     ~~imposes a limitation on the public's right of access to the meetings~~  
10    ~~of public bodies or the writings of public officials and agencies~~  
11    ~~within the meaning of Section 3 of Article I of the California~~  
12    ~~Constitution. Pursuant to that constitutional provision, the~~  
13    ~~Legislature makes the following findings to demonstrate the interest~~  
14    ~~protected by this limitation and the need for protecting that interest:~~

15    ~~In order to protect confidential and proprietary information~~  
16    ~~submitted to the secretary, it is necessary for that information to~~  
17    ~~remain confidential.~~